

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 99-14

March 11, 1999

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Comments of the Justice Department Concerning  
GC Memorandum 98-15, Reinstatement and Backpay  
Remedies for Discriminatees Who May Be Undocumented  
Aliens In Light of Recent Board and Court Precedent

This Memorandum supplements GC Memorandum 98-15, dated December 4, 1998, concerning reinstatement and backpay remedies for discriminatees who are alleged to be undocumented aliens. The Department of Justice's Office of Special Counsel (which has statutory jurisdiction over the Immigration Reform and Control Act or "IRCA") substantially agrees with the thrust of the policies set forth in the Memorandum. However, the Special Counsel has commented on certain aspects of IRCA's initial verification procedures and anti-discrimination provision. In particular, the Special Counsel noted that (1) IRCA prohibits an unscrupulous employer from discriminatorily verifying a job applicant's work documents before he or she is hired, and (2) an employer's attempt to elicit incriminating testimony from a discriminatee without seeking documents from him or her may more broadly violate IRCA's general non-discrimination provision set forth at 8 U.S.C. Sec. 1324b.

Please note these clarifications in handling all matters falling under the scope of Memorandum GC 98-15. The Special Counsel's letter concerning the Memorandum is attached.

R.A.S.

cc: NLRBU

Attachment

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